

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON C. THOMPKE, and
MELISSA J. THOMPKE,

Plaintiffs,

v.

Case Number 17-10369
Honorable David M. Lawson

FABRIZIO & BROOK, P.C.,

Defendant.

/

ORDER DENYING MOTION FOR PARTIAL RECONSIDERATION

This matter is before the Court on the defendant's motion for partial reconsideration of the Court's opinion and order denying the defendant's motion to dismiss. The defendant asks the Court to reconsider its previous order denying the motion to dismiss because it believes that the Court erroneously determined the plaintiffs have standing based on a misreading of plaintiff Jason Thompke's Affidavit. Even if the Court was mistaken in its interpretation of that affidavit, correcting that mistake would not result in a different ruling on the motion to dismiss. As the opinion made clear, although the affidavit "fortified" the plaintiffs' position, the plaintiffs adequately pleaded a concrete and particularized injury to establish standing. The defendant also believes that the Court erroneously found that the plaintiffs stated a claim. The defendant argues that the FDCPA requires the warning language the defendant included in the public notices of foreclosure. However, FDCPA warning language was not required in the public notices the defendant issued. Moreover, those were not necessarily communications with the debtor; they were announcements that a public auction would be held to sell the plaintiffs' property.

Motions for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(h)(1) when the moving party shows (1) a “palpable defect,” (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(h)(3). A “palpable defect” is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep’t of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted). “Generally . . . the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court.” E.D. Mich. LR 7.1(h)(3). Because the defendant has not pointed to any palpable defect in the Court’s decision that misled the Court and would result in a different determination on its motion to dismiss, the defendant’s motion for reconsideration will be denied..

Accordingly, it is **ORDERED** that the defendant’s motion for partial reconsideration [dkt. #19] is **DENIED**.

s/David M. Lawson _____
DAVID M. LAWSON
United States District Judge

Dated: September 1, 2017

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 1, 2017.

s/Susan Pinkowski _____
SUSAN PINKOWSKI